

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: : **Chapter 13**
Bainbridge, Robert
Debtor/Plaintiff : **15-12924 sr**

vs. :

U.S. Department of Housing : **Adversary No.**
and Urban Development
Defendant

Complaint Pursuant to 11 U.S.C. Section 506(a)
To Determine Creditor's Secured Status

The Debtor, by his attorney, requests this court, pursuant to 11 U.S.C. Section 506(a) to determine the value of interest of U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD") and Novad Management Consulting, LLC, Creditor's Authorized Agent in debtor's property and determine the amount of their allowed secured claim, if any. In support of this complaint the Debtor states as follows:

1. The Debtors filed the instant voluntary petition under Chapter 13 of the Bankruptcy Code on April 28, 2015.

2. At the time the Debtor filed the instant bankruptcy petition, the fair market value of the Debtor's interest in real estate located at 444 Edgemoor Road, Philadelphia, PA 19151, was \$118,021.00. (See a true and correct copy of Debtor's Proof of Value attached hereto as Exhibit A).

3. The Debtors' interest in the real estate is subject to a first lien arising out of a first mortgage dated May 23, 2008 duly recorded on June 17, 2008 at 1:18:13 PM with the Recorder of Deeds, Montgomery County, Norristown, PA, Doc Id: 2008062466 in favor of Mortgage Electronic Registration Systems, Inc. ("MERS") as nominee for M&T Bank in the amount of One-Hundred Sixty-Four Thousand Eight Hundred Eighty-Six Dollars and 00/100 (\$164,886.00). On or about December 11, 2009, MERS as nominee for M&T Bank assigned its mortgage to M&T Bank. On or about May 8th 2013, M&T Bank assigned its mortgage to The Secretary of Housing and Urban Development and on or about August 23, 2013, The Secretary of Housing and Urban Development assigned it mortgage to Queen's Park Oval Asset Holding Trust c/o U.S. Bank Trust National Association. (Hereinafter referred to as "first mortgage"). (See proof of claim filed by first mortgage attached hereto as Exhibit B).

4. The Debtors' interest in the real estate is also subject to a second lien arising out of a "Subordinate Deed of Trust and Note" dated March 31, 2009, duly recorded on April 15, 2009 at 11:00:05 AM with the Recorder of Deeds, Montgomery County, Norristown, PA, Doc Id: 2009035752 in favor of the Secretary of Housing and Urban Development ("HUD") in the amount of Eight Thousand Four Hundred Eighty-

One Dollars and Sixty-Four cents (\$8,481.64). (Hereinafter referred to as "HUD" and/or "second mortgage"). (See attached proof of claim filed by HUD in Debtor's prior bankruptcy case no. 14-16067 attached hereto as Exhibit C).

5. On September 24, 2015, Queen's Park Oval Asset Holding Trust c/o U.S. Bank Trust National Association filed a secured proof of claim in the amount of \$235,759.34. (See Exhibit B).

6. On April 24, 2015, HUD c/o its Authorized Agent, DEVAL, LLC, filed a secured proof of claim in Debtor's prior bankruptcy case no. 14-16067 in the amount of \$8,481.64. (See Exhibit C).

7. The second mortgage held by HUD is junior to the first mortgage held by Queen's Park Oval Asset Holding Trust c/o U.S. Bank Trust National Association.

8. Pursuant to 11 U.S.C. Section 506(a), the second mortgage held by HUD and/or its successors and/or assigns is wholly unsecured.

Wherefore, the Debtors pray this Court to:

a. Determine that the second mortgage held by HUD and its Authorized Agent, Novad Management Consulting, LLC, its successors and/or assigns is wholly unsecured;

b. Determine that if a secured claim is filed by HUD, it will be treated as a general unsecured claim; and

c. Order HUD, its successors and/or assigns upon discharge to have their second mortgage marked "SATISFIED" and removed from the mortgage index as recorded at the Recorder of Deeds, Montgomery County, Norristown, PA.

Dated: October 22, 2015

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